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Human rights defenders

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the report submitted by Hina Jilani, Special Representative of the Secretary-General on Human Rights Defenders, in accordance with General Assembly resolution 56/163.

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Report of the Special Representative of the Secretary-General on Human Rights Defenders

Summary

The present report to the General Assembly is the second by the Special Representative of the Secretary-General on human rights defenders, pursuant to Commission on Human Rights resolution 2000/61 of 26 April 2000 and General Assembly resolution 56/163. It contains an overview of the outcome of the regional consultations the Special Representative has attended since the beginning of her mandate. The Special Representative examines the recommendations made by the participants in each of the regional consultations. In addition, she draws upon her dialogue with Governments to formulate and recommend strategies for the better protection of human rights defenders and the implementation of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (resolution 53/144, annex).

In the implementation of her mandate the Special Representative has conducted consultations with defenders and human rights organizations in several different regions in order to seek and receive information on the situation of human rights defenders engaged in activities for the promotion, protection and implementation of human rights. The report of the Special Representative to the fifty-eighth session of the Commission on Human Rights (E/CN.4/2002/106) mentioned consultations in Western Africa, Latin America, Asia and the Middle East. Another consultation on the situation of human rights defenders in the Middle East was held at the Office of the United Nations High Commissioner for Human Rights in Geneva on 24 March 2002, coinciding with the fifty-eighth session of the Commission on Human Rights.

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I. Introduction

1. The present report is the second by the Special Representative of the Secretary-General on human rights defenders, pursuant to Commission on Human Rights resolution 2000/61 of 26 April 2000 and General Assembly resolution 56/163 of 19 December 2001. Since her appointment the Special Representative has submitted four reports to the Commission on Human Rights (E/CN.4/2001/94; E/CN.4/2002/106; and E/CN.4/2002/106/Add.1 and Add.2).

2. The report contains an overview of the outcome of the regional consultations the Special Representative has attended since the beginning of her mandate. The Special Representative examines the recommendations made by the participants in each of the regional consultations and draws upon her dialogue with Governments to formulate and recommend strategies for the better protection of human rights defenders and the implementation of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (resolution 53/144 of 9 December 1998, annex).

3. In the implementation of her mandate the Special Representative has conducted consultations with defenders and human rights organizations in several different regions in order to seek and receive information on the situation of human rights defenders engaged in activities for the promotion, protection and implementation of human rights. In her report to the fifty-eighth session of the Commission on Human Rights (E/CN.4/2002/106), the Special Representative mentioned consultations in Western Africa, Latin America, Asia and the Middle East. Another consultation on the situation of human rights defenders in the Middle East was held at the Office of the United Nations High Commissioner for Human Rights in Geneva on 24 March 2002, coinciding with the fifty-eighth session of the Commission on Human Rights.

4. In addition to participating in regional consultations, the Special Representative has met with international organizations and discussed strategies for the implementation of the Declaration. The presence of human rights defenders at these meetings has widened the scope of their discussions to include issues of protection and the role of international organizations in the promotion and protection of human rights activity at the national level, and the support and solidarity they extend to defenders in different ways. The most recent event of this nature was held in Dublin on "Steps to Protection: The Dublin Platform for Human Rights Defenders", from 17 to 19 January 2002.

5. The Special Representative has also established contact with regional human rights bodies in order to strengthen the impact of her mandate by cooperating with these mechanisms for the protection of human rights defenders. She is happy to report that considerable progress has been made in designing initiatives in cooperation with the Inter-American Commission on Human Rights. The Special Representative attended the thirty-first ordinary session of the African Commission on Human and People's Rights in Pretoria on 2-3 May 2002. She was able to initiate a dialogue with members of the Commission concerning ways to cooperate in the protection of human rights defenders and strengthen the implementation of the Declaration in the countries of the region. She hopes to continue this dialogue with the African Commission on Human and People's Rights in order to devise joint strategies and identify possible joint initiatives and actions.

6. The Special Representative thanks the Comité Ad Hoc No Gubernamental de Protección a Defensores de Derechos Humanos, Colombia; la Red Nacional de Organismos Civiles de Derechos Humanos "Todos los Derechos para Todos", Mexico; the Asian Forum for Human Rights and Development (Forum-Asia); the Asian Human Rights Commission; the human rights defenders coalition of Senegal; the Jacob Blaustein Institute for the Advancement of Human Rights; Amnesty International; the Human Rights Defenders Office of the International Service for Human Rights; The Observatory for the Protection of Human Rights Defenders (joint programme of the International Federation for Human Rights and the World Organization against Torture); the International Federation of Human Rights; and Human Rights Watch for facilitating international and regional consultations as well as contacts with regional human rights bodies.

II. Consultations with human rights defenders

7. While the risks that human rights defenders encounter have common features at the global level, measures for their protection can best be determined through a regional approach that takes into consideration political, economic and social conditions as well as institutional arrangements in the region concerned. Such an approach provides the means for States to carry out their responsibilities under both regional and international human rights treaties for the implementation of the Declaration and the protection of defenders. The Special Representative engaged in this process of consultation in order to make effective and feasible recommendations. Her approach therefore has been to assess the situation in the light of information on the condition of institutions, laws that impede human rights activity, and forces that civil society sees as threatening the security of human rights defenders.

8. The methodology the Special Representative has chosen for the implementation of her mandate requires her to identify reliable and credible sources within the human rights community at the national and regional levels and establish relations with them. At the same time, information on national, regional and international non-governmental organizations or defenders' networks and an assessment of their capacity for action in support of defenders at risk are important for devising strategies for protection involving actors at different levels. The Special Representative has also established contact with defenders at the regional level in order to determine the sources whose cooperation can be sought for interventions to protect defenders on the one hand, and for support to strengthen the capacity of defenders to form solidarity structures on the other hand.

A. Africa

9. A legacy of colonial rule and internal conflicts, coupled with the needs of a diverse ethnic, racial and religious population, presents a challenging situation for the promotion and protection of human rights. Defenders are therefore constantly engaged in the protection of civil and political freedoms as well as economic, social and cultural rights. It is evident that human rights defenders are a vital part of civil society and are in the forefront of the struggle for respect for human rights, democracy and the rule of law. Nevertheless, the plight of human rights defenders in Africa and the work they do have received little public attention.

Concerns

10. During the consultation with the Special Representative, human rights defenders raised issues relevant to their security and the challenges faced in carrying out activities for the protection and promotion of human rights. Attacks; threats; harassment; public campaigns to discredit them; surveillance by intelligence and security forces; break-ins into the offices of non-governmental organizations and confiscation or theft of documents and records; and prosecution under false charges are some of the methods used to silence human rights defenders.

11. Situations of armed conflict, characterized by gross violations of human rights and humanitarian law inflicted against civilians raise the risk to human rights defenders. They become targets as a result of their visibility in the struggle to diminish the impact of violence on fundamental rights and freedoms and their role in exposing violations and the perpetrators on all sides of the conflict. The defenders become objects of pressure and intimidation when they take positions on peace and demilitarization or when they interact with intergovernmental institutions or the international community in order to achieve these objectives.

12. Those fighting to end impunity are especially targeted and have been killed, attacked, detained, intimidated, harassed and prosecuted under false charges. In particular, in countries emerging from recent armed conflict, voices raised on behalf of accountability and critical of blanket amnesty for gross violations during the internal armed conflicts are being deliberately silenced. Human rights defenders who continue to denounce such violations have suffered reprisals at the hands of those responsible for the violations. Some Governments have used the arguments of reconciliation and reconstruction to allow impunity for past abuse. They accuse defenders who protest of being enemies of the State, of tarnishing the image of the State and of blocking much-needed international aid.

13. Members of human rights organizations, journalists and trade unionists in many countries of the region have faced arbitrary detention. A serious

concern was the high incidence of torture and ill treatment during detention in many countries of the region. It is common for defenders to be detained repeatedly, sometimes for short periods, and to be released after torture or humiliating treatment without any charges being filed against them.

14. Cases were reported of human rights defenders who were victims of extrajudicial killings or who died in custody. In some cases commissions of inquiry had been established and had found members of the security forces in these countries responsible. Such inquiries have led to the prosecution and sentencing of a few perpetrators. In a majority of cases, however, impunity prevails for attacks against human rights defenders.

15. In many countries of the region, freedom of assembly has been particularly curtailed, and excessive and indiscriminate use of force to break up demonstrations has been reported. Laws restricting this freedom allow Governments to treat peaceful assemblies as illegal and to use violence against human rights defenders exercising their right to protest against human rights violations. Arrest and detention on charges ranging from vandalism to "disturbing public order" have followed such demonstrations. It was reported that in many instances this excessive use of force at peaceful demonstrations has provoked a violent reaction, which, in turn, was answered by more violence from the State forces, causing loss of life and injuries.

16. A common trend in the region is to target in particular those who strive for democratic rights and criticize undemocratic governance, or who expose corruption and abuse of power. Human rights violations increase prior to, and in the wake of, elections, especially when concerns are raised regarding election fraud or malpractices.

17. Human rights defenders have been severely repressed by Governments that see exposure of their poor human rights records as damaging to their international image and as affecting their relationship with international donors. Members of human rights organizations who publish reports exposing human rights violations have been accused of attacking the credibility of the State and enriching themselves by spreading false information to international non-governmental organizations. Defenders who cooperate with international and regional human rights bodies or organizations in fact-finding and inquiries have suffered reprisals in the form of legal proceedings, intimidation and harassment.

18. Governments tend to use the judicial system as a means of harassing and punishing defenders for upholding human rights. In order to dispel impressions that they see human rights activity as a criminal activity in itself, the trend is to charge human rights defenders for crimes such as "sedition", "incitement to revolt", "attempt to undermine institutions" and offences against the security of the State. Prosecution of human rights defenders under false charges is also a common form of harassment.

19. In some of the countries freedom of association is severely restricted because of a requirement of registration, which is frequently denied for political motives in order to curtail the activities of human rights organizations. As a result, human rights associations operate outside the law, exposing defenders to prosecution and imprisonment. This has affected the activities of human rights defenders focusing on violations about which Governments are particularly sensitive owing to international condemnation.

20. Human rights defenders were greatly disturbed by the widespread repression of freedom of expression throughout the region. The laws in several of the States in West Africa restrict freedom of expression. Governments have taken steps to muzzle independent newspapers and radio stations. In this regard, powers of licensing are misused to shut down radio stations, which have become an important means of information in the region, especially in remote and rural areas. Several journalists in the region have been arrested or attacked for disseminating information on human rights violations or for criticizing their Government for its abuse of power and its lack of respect for human rights, democracy or the rule of law.

21. In some countries of the region the promotion and protection of economic and social rights are particularly fraught with danger. State security forces have used excessive force and tactics of intimidation and harassment against those who are protesting against the activities of multinational oil companies. The rights that these protestors seek to protect largely relate to the right of indigenous, or other marginalized, communities to land and environmental security. Human rights defenders expressed indignation that

Governments in the concerned countries were permitting and protecting the violation of rights by powerful interests and using the force of the State to repress those who are defending their social and economic rights.

22. The major perpetrators of abuse and violence identified by human rights defenders are State security forces, including police, army and paramilitary forces and intelligence services. Armed groups were also held responsible for violation of the rights of human rights defenders. Some of them operate as clandestine groups whose identity or affiliation cannot be ascertained, but they are known to have struck against human rights defenders alleging gross human rights violations by Governments. Others are armed opposition groups who have inflicted grave violations against civilians and carried out reprisals against human rights defenders.

23. In situations of conflict between government and armed opposition groups, or where remnants of a subsiding armed conflict still exist, human rights defenders face serious risk in upholding human rights or advocating measures for bringing about peace. Deployment of military troops in areas where they perform functions of law enforcement creates situations that undermine the security of human rights defenders in a variety of ways.

24. A number of human rights defenders are living in self-imposed exile after having to flee the country to safeguard their lives or liberty. Some suffer long periods of separation from their families. Many remain anxious for the safety of their families and associates, who may face harassment by the authorities or the forces who endangered the defender. Such defenders are forced to live in difficult circumstances, many times without adequate support or legal status in the country where they have sought refuge.

25. The issues raised by human rights defenders would not be adequately presented without mentioning the situation of women human rights defenders. Women in Western Africa defend human rights despite widespread social discrimination and the gender-specific risks to which they are exposed. Women, individually and collectively, are working to raise awareness of women's rights issues, including harmful traditional practices prevalent in many societies of Western Africa. Women are deeply engaged in activities for peace, in movements for democracy and in the defence of human rights as lawyers, journalists and social activists. Many are advocates of the rights of vulnerable groups and work for the promotion and protection of social, economic and cultural rights. However, their work has not received the recognition due or sufficient public attention, nor have issues of their protection been addressed adequately.

26. Despite the difficulties they continue to face, defenders did see changes in the situation of human rights in the region. Cessation of internal conflict in many of the countries was the most encouraging sign. Human rights defenders recognized the crucial role they have to play in bringing about enduring peace and ensuring that human rights are respected and protected in post-conflict societies. In countries that have experienced a transition to civilian rule and democracy, human rights defenders have endeavoured to find space for cooperation with Governments on initiatives to build a human rights culture, but continue to speak out when rights are violated.

Recommendations

27. One of the basic strategies for the protection of human rights defenders recommended by the participants was the formation and strengthening of human rights defenders networks and coalitions at the national and regional levels. Coalitions should ensure accessibility and prompt action, lobby for support of their protection initiatives and build contact with the media, including reinforcing and institutionalizing networking with journalists.

28. Taking practical steps to protect persecuted defenders should be an important part of the responsibilities of coalitions, including arrangements for their temporary refuge in other countries. In all cases the dignity of defenders in exile should be maintained despite the difficult circumstances, and their wishes should be considered in trying to effect placement. Funds should be generated to provide for urgently needed relief work and support to human rights defenders at risk.

29. Coalitions should issue solidarity statements when any defender or groups are under threat in any of the countries of the region. Special care must be taken to respond to the situation of human rights defenders working in rural, remote and conflict areas, and to the needs of women human rights defenders.

30. Governments should fully recognize the legitimacy of human rights defenders by implementing

the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms. All members of security forces should be instructed on the principles of the Declaration. Cooperation of all State agents with human rights defenders in their work should be ensured and they must be restrained from generating hostility against them. The work of human rights defenders should be publicly acclaimed and a permanent dialogue on protection of human rights work should be maintained with them. Full and independent investigations of attacks against human rights defenders, including rape and harassment of women human rights defenders should be ensured, and those responsible should be brought to justice. States in the region must ratify human rights conventions and treaties and reform their legal systems in accordance with international human rights law.

31. Information received by the Special Representative should be verified and must be sought from more than one source. The independence and reliability of sources must be ensured. Defenders' coalitions could become conduits of information to the Special Representative and should cooperate with her for verification of information. The Special Representative may take action on press reports where they are considered reliable. While the need to respect the confidentiality of responses received from Governments is understandable, the Special Representative should communicate these responses to the source of information in cases when it is necessary to clarify the situation and take measures for the protection of defenders at risk. National and international non-governmental organizations and regional coalitions should follow up cases in which the Special Representative has taken action and keep her informed of the situation of the defenders concerned.

B. Latin America

32. The Latin American consultation was an opportunity for the Special Representative to gather information on the situation of human rights defenders in a region with a history of volatile conflicts, diverse social movements and ever-changing political and economic trends. The Special Representative was also able to inform herself about the defenders' expectations following the creation of her mandate for the protection and promotion of their work.

Concerns

33. Risks to the safety of defenders and their work continue to be severe and have increased dramatically in several countries in the region. Violations against human rights defenders are often linked to the armed forces and security forces, although on occasion they involve other parties (for example, guerrilla or paramilitary forces; criminal gangs working for landowners or companies). Defenders that work in remote areas with communities that are vulnerable are more at risk. In some countries the risk to defenders has reached a degree that can be characterized as a situation of emergency for human rights defenders.

34. In many parts of the region there is a marked tendency towards militarization as a response to social and political crisis. The militarization of public security has increased noticeably in the region. This has promoted the dominance of military logic, military legislation and military practices in approaches to social control. This has also allowed the military sector to gain influence and encroach upon political spaces. In many countries the military enjoys a level of immunity. Their expanded role impairs the accountability and transparency of a range of public institutions. In some countries this has been accompanied by the reappearance of the so-called "national security doctrine" (for instance, the introduction of anti-terrorism legislation to combat common delinquents and used against human rights activity), turning human rights defenders into legitimate targets for defamation and attacks by the Government.

35. Human rights defenders are greatly concerned that certain initiatives in the region are exacerbating conditions that result in human rights violations. Plans to combat drug trafficking and organized crime are designed or implemented in a manner that offers a new ideological legitimacy to the oppression of human rights defenders. It was further noted that the implementation of such initiatives entails massive internal displacement of people and an outflow of refugees, and severe degradation of the security of human rights defenders and their work in the countries concerned. Apprehension was expressed that these initiatives could aggravate situations of conflict that could impact on the human rights situation in the region.

36. An appreciable weakening of the rule of law has been observed in different countries of the region where insufficient, not genuinely representative democracies prevail with little or no space for citizen participation, and without accountability or transparency. At the same time, public institutions are increasingly used to perpetuate and strengthen the interests of certain sectors, resulting in growing and alarming levels of corruption, erosion of the institutions and criminal practices, including attacks on defenders. Attempts at regional and subregional coordination by the Governments in intelligence matters, in order to control and impair the work of non-governmental organizations, have been observed, especially with regard to activists opposing structural reforms and globalization.

37. The number of official campaigns sponsored and financed by Governments to defame defenders has increased, while spaces to curtail such actions have been narrowing, even through the criminal justice system.

38. Defenders observed with great concern the introduction of legislation and case law in several countries in the region that limit the freedom of association, access to recourse and freedom of movement of human rights activists.

39. Official protection programmes for human rights defenders adopted by some of the Governments from the region are quite positive but seriously deficient. These programmes can in no way be offered as palliatives for the impunity of the oppressors.

40. Despite an increasing trend by Governments in the region to set up human rights institutions and initiatives, a lack of political and financial support has rendered those institutions ineffective in protecting human rights. Poor coordination of such mechanisms results in a failure to determine responsibility and prevents any consolidated action. Confronting this situation implies a substantial depletion of resources for human rights activists.

41. With regard to the administration of justice, almost complete impunity for human rights violations prevails in the region. States are increasingly using institutions in charge of the administration of justice to impair and control the work of non-governmental organizations, by means of electronic espionage and telephone surveillance on the one hand and the prosecutions of activists on the other hand.

42. Nevertheless, an important and growing number of government officials in the region are committed to the cause of human rights, especially prosecutors and judges, who are repeatedly targets of human rights violations and who therefore should be able to enjoy the benefits of human rights protection mechanisms.

43. In the region, at the institutional and government levels, knowledge of the State's commitments in human rights matters is lacking. Internal monitoring procedures and effective control by public institutions to guarantee the enforcement of these commitments are also noticeably absent. In general, training in human rights issues for government officials, including judges and prosecutors, is urgently needed.

44. Structural reforms and neo-liberal economic reforms adopted by countries in the region have resulted in violations of economic, social and cultural rights and of the rights of the indigenous peoples. This is amply reflected in the growing poverty and social exclusion of large sectors of the population. This has resulted in serious patterns of violations of civil and political rights in rural areas and urban poverty belts, and has also affected the indigenous peoples and social organizations active in these surroundings, including environmental organizations. In this situation new private agents have emerged that are responsible for serious human rights abuses in collusion with the Governments. This trend is promoted by free trade agreements that are devoid of content, regulations or controls in human rights matters. This serious omission could lead to a further increase in violations and a future crisis of human rights in the region.

45. A growing difficulty that has been observed is that of defenders who are at risk to leave their countries and enter others when their life or physical integrity, or that of their loved ones, is threatened. It is therefore urgent to facilitate the means to guarantee their right to asylum and safe haven.

Recommendations

46. Governments of the region must acknowledge the legitimacy and value of the work of human rights defenders and effectively apply the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms.

47. Protection of human rights defenders is an essential part of the enforcement of universally

recognized human rights. Concrete protection measures therefore become an essential element of all national policies for promoting human rights. Protection measures must include judges, prosecutors and other government officials who suffer human rights violations owing to their commitment to human rights principles.

48. An important step in the protection of human rights defenders is to facilitate mechanisms to guarantee their right to asylum and safe haven. Witness protection programmes in the region are clearly insufficient and should therefore be encouraged, developed and made effective where necessary. This is a prerequisite for ending impunity, which is a serious human rights issue in the region.

49. The Special Representative should institutionalize a process of periodic consultations with human rights defenders in the region and guarantee the continuity of cooperation with the human rights movements. She should strengthen the mechanisms for urgent action and communication and undertake on-site visits to ensure adequate protection of defenders.

50. The Special Representative should strengthen the effectiveness of her work through coordination with regional and international organs, including the Inter-American Commission on Human Rights and the various United Nations mechanisms for the promotion and protection of human rights.

51. Without prejudice to the principle of State responsibility to protect human rights defenders and promote their work, the Special Representative should consider establishing communication with non-State actors who are responsible for the violation of the rights of human rights defenders. In countries in conflict she should consider the possibility of dialogue with other parties, including guerrilla movements or armed opposition groups.

C. Asia

52. In several countries of the region, armed conflict, struggles for the right of self-determination and movements for democracy form the backdrop for the work of human rights defenders. The degree of risk and insecurity that defenders face is determined primarily by the political conditions and the practices of governance adopted by the State. Some of the concerns highlighted by the defenders depict the difficult conditions under which they operate.

Concerns

53. Human rights defenders in the region continue to be subjected to assassinations, disappearances, illegal arrest and detention, and torture. Added to these are vilification campaigns and negative propaganda against human rights defenders. The participants noted that in many instances such propaganda is initiated by the intelligence agencies of the State and propagated by unscrupulous use of the media. Such propaganda often precedes acts of violence against defenders and the constituencies they represent.

54. Human rights defenders experience various forms of prosecution on the basis of false charges and fabricated evidence. Defenders in several countries of the region have suffered arrest and detention, unfair trial and denial of due process after false cases were registered against them as a tactic of harassment. Prosecutors often collaborate in the process of the denial of justice, and sometimes judges may also be involved.

55. Women are among the most oppressed categories of persons in Asia. Their rights have been violated in the name of culture and religion. Extreme forms of restrictions have been imposed on them, and the rights to education and participation in society and State, on an equal basis, have been denied to them.

56. Ethnic groupings and caste classifications have undermined the right to dignity of the person and have caused gross violations of other rights, particularly economic, social and cultural rights. Some ethnic communities and other minority groups have been subjected to military incursions into their territories under pressure of the ruling majority. Indigenous communities in Asia continue to suffer deprivation of rights and have endured incredible atrocities. Among such deprivations is the right to own land in common ownership, a sacred right among many of the indigenous populations in the region.

57. Those defending the rights of workers are commonly targeted. Their struggle for the right to work and to decent wages and work conditions forms the major component of the people's struggle for economic, social and cultural rights. At the same time their right to association and assembly is severely curtailed in many countries of the region.

58. National security laws have been imposed in the severest forms in many countries of Asia. Sometimes these laws have been imposed following a declaration of martial law or a state of emergency. In some countries such laws are a permanent part of the domestic legal framework, weakening the effects of any guarantees of fundamental rights and adversely affecting the efficacy of the mechanisms for the enforcement of fundamental rights.

59. Institutions for policing and prosecution suffer from inefficiency and corruption, and the independence of the judiciaries is severely strained, denying people the protections that are normally available under a constitutional framework.

60. The situation has worsened owing to the process by which multinational corporations and other non-State agents have acquired an enormous degree of control over the life and liberties of the peoples of this region. State policy, in many countries, has ceased to respond to people's needs and is formulated to accommodate the demands of powerful economic interests. Exploitation of labour and depletion of the environment are some of the serious forms of violations resulting from the new economic arrangements. In many countries of the region, stability rather than development has become an imperative to be achieved through the use of State force to repress popular movements and quell the voices of protest against the violation of rights.

61. The participants expressed grave concern regarding the effects on the situation of human rights defenders of the anti-terrorism laws and strategies adopted by many States in the wake of the events of 11 September 2001 in New York. Repressive anti-terrorist or security laws existed in some of the countries even before the incident. Governments are using the present circumstances to justify these practices. These laws are being used in a manner that has further eroded due process and the rule of law. Human rights defenders striving for respect for human rights principles and standards are becoming victims of State repression and are being labelled and prosecuted as supporters of terrorists. Normal operation of the law is being repeatedly suspended and human rights norms frequently ignored to justify State action in the name of combating terrorism. Normal criminal activity but also political opposition and criticism of Governments are being treated under the anti-terrorism laws. Trials by military courts and special tribunals are increasingly being adopted. Secrecy has seeped into legal and administrative processes wherever such laws have been enforced. Defenders are finding it increasingly difficult to gain access to information in cases of arrest and detention of persons accused under these laws, affecting their work of monitoring State practices.

Recommendations

62. The role of human rights defenders must be legitimized at the level of both the State and civil society. The Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms can be an effective tool in this regard.

63. Regional strategies to complement those adopted at the national level should be devised to advocate the repeal of repressive national security laws.

64. Documentation on human rights defenders under threat, appropriate formats for the information that needs to be communicated and access to fast means of communication are urgently needed in the context of the situation in the region.

65. Special attention must be paid to the safety of human rights defenders from marginalized segments of society, as they are more vulnerable to risk. For gathering and conveying information, better access must be provided to those working in remote areas. Human rights defenders working with refugees, or those who have to operate from outside for the defence of human rights in their own countries, are especially vulnerable and should be supported by the human rights community at the regional level.

66. Monitoring groups and evacuation teams should be established to respond immediately in situations where human rights defenders are in grave and imminent danger. Lists should be established of host organizations willing to help human rights defenders who need safe haven outside their own countries and identify persons who can be contacted in emergencies. Countries that refuse asylum to defenders in grave danger should be sensitized. The main regional human rights groups in the region should establish a combined task force for this purpose.

67. Human rights defender networks should be strengthened and better coordinated at the national and regional levels. Urgent action networks are already

functioning in the region and should be utilized more widely as a mechanism for the protection of human rights defenders.

68. Regional networks must cooperate with the Special Representative for verification of information. Urgent action appeals in the region should be copied to her to enable her to take action.

69. Countering attacks on the credibility of human rights defenders and putting a stop to smear campaigns against them has become imperative. The Special Representative of the Secretary-General on Human Rights Defenders, the Office of the United Nations High Commissioner for Human Rights and other United Nations human rights mechanisms must support defenders in their efforts to this end.

D. The Middle East and the Euro-Mediterranean region

70. Participants at the two meetings on which the Special Representative is reporting identified certain characteristics and trends prevalent in the region that had a profound effect on the freedom of human rights defenders to carry out their human rights activities.

Concerns

71. The reports and discussions shed light on the suffering and dangers that activists in the countries of the region continue to experience. Examples were given of attempted or actual killings, kidnappings, disappearances, imprisonment, detention, interrogation and torture, and physical abuse. In addition to physical attacks, defenders are subjected to multiple forms of repression, including the creation of obstacles to the formation and recognition of associations; dissolution of organizations and seizure of their assets; penal proceedings; defamation campaigns aimed at denying them legitimacy among local people; arbitrary dismissal from jobs; pressure on their families and relatives; restrictions on freedom of movement; establishment of "GONGOs" (associations controlled by the Government and political bodies) that harm the credibility of genuine non-governmental organizations; and a general climate of fear, generated by practices carried out by Governments and their agents against human rights defenders.

72. Defenders observed that legal obstacles stemming either directly from laws governing the establishment of associations or from the general system of laws create numerous difficulties for human rights defenders in setting up their associations and carrying out their human rights activities. It was noted that out of the seven countries discussed on the basis of field reports at one of the meetings, four have been under emergency laws for a long time. All seven countries have laws that restrict basic rights and public freedoms in violation of ratified international standards.

73. Participants spent considerable time discussing the situation of human rights defenders in the Occupied Palestinian Territory, who face grave difficulties both from the occupation, which is a source of regular human rights violations and violations of international humanitarian law, and from abuses committed by the Palestinian Authority. It was concluded that all violations against the Palestinians and the consequent effects on the work and security of human rights defenders are rooted in the occupation.

74. Defenders raised the concern that current international developments arising from the events of 11 September 2001 and the international campaign launched against terrorism erode the international legal system of human rights. While not necessarily targeted against human rights defenders, many of the measures taken do have a highly detrimental and increasingly dangerous effect on defenders in the discharge of their functions. This has resulted from the precedence given to security considerations over and above human rights. In order to justify the actions of the State, basic principles of international law are being misrepresented, and propaganda campaigns undermining human rights activism are being launched.

75. There also seemed to be problems inherent in the structure, resources and sources of funding, and administrative and technical capacity of human rights organizations. Opinions differed as to the positive and negative effects of foreign financing on human rights organizations, especially with regard to the condition that such organizations should function initially on a volunteer basis. Some participants noted that the coordination of human rights movements in the region should be improved. Some participants also highlighted the need for stronger relations with organizations from developing countries, especially in Asia and Latin America.

Recommendations

76. Non-governmental organizations in the region should promote regional initiatives on freedom of association and reinforce acts of solidarity among other regional non-governmental organizations. They should elaborate a code of ethics to improve transparency and democratic ways of functioning within associations so as to protect non-governmental organizations from criticism in this regard. In order to preserve their independence, non-governmental organizations should find means to diversify their funding sources.

77. Independent media that advocate the promotion of human rights and reach the general public should be established. Non-governmental organizations that promote human rights should integrate the issue of women's rights and, specifically the protection of women human rights defenders, into their programmes and place it among their priorities.

78. Defender organizations called upon the European Union to complement financial support of civil society through political support by integrating human rights into all aspects of European Union foreign policy. Clear priorities for the support of non-governmental organizations in the Euro-Mediterranean region should be determined in consultation with defenders in the region. Regular contact should be established with defenders and concrete action for their security should be undertaken whenever their rights are violated.

79. Participants urged the member States of the League of Arab States to reconsider the Arab convention on human rights and the Arab Convention for the Suppression of Terrorism (7 May 1999) so as to ensure their conformity with international human rights laws and instruments. The Arab League should also establish evaluation mechanisms to ensure the respect of human rights by member States. Independent human rights associations of the region should be given access to the human rights commission within the Arab League.

80. At the international level, dissemination of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms as well as other applicable instruments on freedom of association should be reinforced. The United Nations should publish and disseminate the text of the Declaration in Arabic and other languages spoken in the region. Defenders should reflect on the use of mechanisms existing within the International Labour Organization on freedom of association. Instances of violation of the Declaration should be systematically submitted to the Special Representative of the Secretary-General on Human Rights Defenders, and Governments should be called upon to invite her to countries where the situation of defenders has become critical.

81. Defenders called upon the donor community, both governmental and non-governmental, to facilitate the work of the defenders through capacity-building and the elaboration of policies and procedures to sustain human rights defence associations in accordance with international human rights law, and by assisting with emergency and rapid response actions for the safety of defenders.

82. Other recommendations addressed to human rights organizations in the region included the promotion and implementation of training initiatives on the Declaration; enhancement of coordination, cooperation and solidarity among defenders through the creation of defenders' networks; and the establishment of closer ties with United Nations and regional human rights bodies, especially the Office of the United Nations High Commissioner for Human Rights, the Special Representative on Human Rights Defenders, and the African Commission on Human and People's Rights.

83. The participants called upon the Arab States to accede to all international human rights instruments, to implement the Declaration and to revise their legislation in order to comply with ratified international instruments, especially with regard to freedom of association. On the basis of the Paris Principles (resolution 48/134 of 20 December 1993), Governments must reassert the independence of their national human rights institutions in order to instil confidence in them.

84. It was recommended that the countries of the region, especially the member States of the Commission on Human Rights, should issue invitations to all United Nations human rights special procedures. In particular the Special Representative of the Secretary-General on Human Rights Defenders should be invited to visit the countries in the region and to initiate a dialogue on all matters raised.

85. Regional organizations were called upon to revitalize the work of the standing Arab committee on

human rights within the League of Arab States and to create an appropriate mechanism to implement the Arab human rights pact.

86. In view of the rising concern regarding the racist, ethnic and religious biases and hostility directed towards people from the region because of the fight against terrorism and its political agenda, international human rights organizations have a responsibility to include criticism of such gross abuses in the scope of their advocacy. Cooperation must be improved between international and non-governmental organizations in the region in the campaign against human rights violations resulting from the international campaign against terrorism.

87. Participants also expressed their satisfaction with the attention and the interest in the region shown by the Special Representative of the Secretary-General on Human Rights Defenders and reiterated their strong desire to invite her to the region. Participants suggested setting up a voluntary fund to allow for an effective implementation of this mandate.

III. Conclusions and recommendations

88. The Special Representative is disturbed by the situation as described by the defenders and has noted the recommendations made by them.

89. The Special Representative notes with concern that human rights defenders are often unable to seek redress for violation of their rights through national forums or institutions. Even where national human rights institutions such as commissions and ombudsmen exist, defenders have received little relief. Protection measures and mechanisms have been adopted in some countries of the regions under discussion, but have failed to inspire confidence in the defenders about their security. This indicates that in a number of these countries institutions are weak and lack independence and credibility.

90. The Special Representative is greatly alarmed by the ineffectiveness of guarantees for the right to life of human rights defenders. Impunity is one serious consequence of any weakness in fulfilling State responsibility in this regard. Though not the most widespread, it is the most serious form of violation committed against human rights defenders. The situation in Latin America is particularly disturbing: despite protection measures adopted as a part of national and regional initiatives, the situation of defenders in some countries of the region has not improved. This concern must be addressed through stronger initiatives at the international and regional levels.

91. The laws of many countries, such as those that restrict the freedoms of assembly, association, expression and information, allow action against human rights defenders for activities protected by the Declaration, rendering interventions for the protection of defenders ineffective. The reliance of Governments on national security laws when reacting to exposure or criticism of their human rights practices is one of the major factors that threatens the safety of human rights defenders. The application of these laws has undermined accountability and transparency in governance, allowed arbitrary use of power and affected the dispensation of justice and ability of judicial systems to protect human rights and fundamental freedoms.

92. From the information she received and from reports by defenders, the Special Representative concludes that the use of national security legislation against human rights defenders for their human rights activities is a widespread problem. However, the situation in some countries of Asia is particularly critical. Complaints and allegations communicated by the Special Representative to Governments include instances in which defenders were charged with forming a counter-revolutionary organization and producing reactionary literature, reportedly for publishing a translation of the Universal Declaration of Human Rights. Defenders engaged in documenting cases of police brutality and those protesting against arbitrary detention under repressive security laws were arrested and detained for investigation of credible threats to the public order and internal security. Those campaigning for the rights of workers and the promotion of basic labour standards have been penalized for carrying out activities that were deemed to be illegal, politically motivated and organized with the aim of undermining economic restructuring. Human rights activity such as an attempt to organize a human rights and democracy conference, publishing articles on political and economic rights, and peaceful advocacy for freedom

of religion and of expression, has invited charges of trying to overthrow the regime or treason.

93. The Special Representative is fully conscious of the imperatives for national security. However, in the cases brought to her attention, it is difficult to establish that the activity for which defenders were prosecuted undermined, or was in any way relevant to, the security of the State. Criticism of Governments cannot be considered as threatening the State. The Special Representative recalls that the Special Rapporteur on the promotion and protection of the right to freedom of expression and opinion, in his annual report to the fifty-fourth session of the Commission on Human Rights (E/CN.4/1998/40), expressed concern on the use of anti-terrorism and national security legislation to restrict freedom of expression and the right to receive and impart information. The Special Representative is convinced that many of the security laws enforced in a number of countries, especially in Asia, need to be reviewed, as their impact on activities for the promotion and protection of human rights has become a serious concern, especially in the wake of measures being taken by States after 11 September 2001. Such a review and reform of this category of legislation is essential for compliance with article 2 of the Declaration.

94. During consultations in all of the regions, defenders expressed the concern that in many countries, national laws regulating the functioning of association impose a wide range of restrictive conditions on the management, operation and financing of non-governmental organizations. In the Middle East in particular, violations of these laws, amounting to no more than the exercise of the right to freedom of association, have resulted in prosecution of human rights organizations, closure of their offices and declaration of their activities as illegal. Human rights activists have opposed these laws on the grounds that they are frequently used to limit their activities and undermine their independence. It is alleged that in some countries these laws have been extensively, and exclusively, applied to human rights organizations that expose State practices that violate human rights. This practice is regarded by many of the defenders as evidence that such laws are deliberately enforced with the motivation to control the activity of non-governmental organizations.

95. The issue of foreign funding has become a flash point of tension between Governments and human rights defenders. Governments have shown an inordinate sensitivity to international funding for non-governmental organizations. While the need for transparency in this regard is understandable, this matter is rooted in the ethics of the non-governmental organization and its credibility; transparency cannot be imposed by laws that infringe on its independence or permit the harassment of its members. In their responses to allegations of prosecuting defenders under such laws, Governments have misconstrued the problem and treated this as an issue of fair trial, rather than that of the application of laws containing unwarranted restrictions. There is an urgent need to reform legislation concerning freedom of association in order to recognize international principles in the field of human rights. This would also be a step towards building a healthier relationship between Governments and civil society.

96. The Special Representative has observed that Governments have resorted to the use of force in response to demands for rights, treating collective action in this respect as a matter of law and order. She is dismayed to note that some Governments have justified repressive measures against human rights defenders participating in peaceful action after provoking a violent reaction from the protesters by the first use of force. Another aspect of the same problem is the use of State security forces by Governments to quell protests against powerful economic interests, both domestic and foreign, especially by those seeking to protect their economic, social and cultural rights. Such actions have resulted in increased public resentment against authorities. In addition, they have diminished the space for dialogue on reconciling economic policies with people's rights to a safe environment, labour practices free of exploitation and control over their own resources.

97. The fact that many defenders have had to flee their countries to escape repression reflects the extreme nature of persecution that they have experienced or fear. The problem seems to be especially grave in Africa, where numerous defenders have sought refuge in other countries.

The relocation of defenders at risk is only a temporary solution, and regional initiatives to assist defenders in finding safe havens have become increasingly important. Financial and political support from the international community for these initiatives is essential to sustain the work that defender coalitions are undertaking. The Special Representative sees the problem in its long-term perspective and as a serious deficiency in the implementation of the Declaration. In this context, measures to ensure the safe return of defenders to their homes and work also need to be considered. Such measures can only succeed with the fuller engagement of the diplomatic community, United Nations human rights mechanisms and regional human rights systems, where they exist.

98. The Special Representative believes that independence, credibility and transparency are cornerstones of the efforts to promote and protect human rights. Objectivity, non-partisanship and accuracy in the communication of information are therefore essential elements of all activities in which human rights defenders engage. It is only through these qualities that defenders are able to maintain respect for their work despite attempts to discredit them. While non-governmental organizations and defenders should maintain and safeguard their integrity, Governments must refrain from attacking and attempting to undermine it.

99. Special attention should be paid to women's protection needs and discussions on the progress and development of issues affecting their security should be promoted. Human rights defenders working on women's rights need the support of movements for democracy, trade unions and other sectors engaged in the struggle for attainment of social and economic rights. This would protect them from harassment and targeting by social actors, and not leave them isolated. In addition, women human rights defenders should be involved in coalitions and given leadership roles to raise their profile.

100. Responses by Governments to the Special Representative's communications are a part of their cooperation with her and enable her to analyse the situation in question. In addition to the information she receives from Governments through their responses, the Special Representative has also sought personal interviews with representatives of Governments. Such occasions allow her to raise her concerns, discuss ways of improving the situation of human rights defenders and consider effective means of implementing the Declaration. The Special Representative appreciates the cooperation extended to her by Governments and the willingness of their representatives to meet with her on her request. However, the Special Representative urges Governments to indicate to her the modalities for a more systematic exchange on issues of concern, and to consider affording such an opportunity through regular meetings with the regional groups of the Commission on Human Rights.

101. With respect to the regions under discussion in this report, in 2001 and in accordance with the figures of her last report to the Commission (E/CN.4/2002/106), the Special Representative sent communications to 15 countries in Africa. From 12 of those Governments, she has received no response to any of her communications. In Latin America, 10 out of the 14 countries to whom communications were addressed have responded. Six out of the 12 countries in Asia to whom communications were sent have responded. Communications were sent to eight countries in the Middle East. All but two of those countries have responded. The Special Representative emphasizes the need for more expeditious responses in urgent appeals addressed to Governments as such cases concern defenders whose life, liberty or security of person may be at risk.

102. The cooperation of Governments is essential in order for the Special Representative to undertake on-site visits. In this regard, request for invitations are still pending for the following countries: Bhutan, Egypt, India, Indonesia, Malaysia, Singapore, Tunisia and Uzbekistan. More recently, additional requests were sent by the Special Representative to Belarus, Chad, Nigeria, Togo, Turkey and Zimbabwe.

103. The Special Representative has made and will continue to make objective assessments based on information she gathers. In this respect she has made all efforts to consult with human rights organizations and defenders, as well as with Governments.

104. In the end, the Special Representative wishes to reiterate that the effective implementation of her mandate depends upon the availability of adequate human and material resources. Without appropriate resources, the objectives that the Special Representative has set will not be met.